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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Report of the Working Group on the Right to Development on its fifth session

(Geneva, 27 September-6 October 1995)

Chairman-Rapporteur: Mr. Mohamed Ennaceur (Tunisia)

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Introduction

1. By its resolution 1993/22, the Commission on Human Rights decided to establish, initially for a three-year period, a Working Group on the Right to Development, composed of 15 experts nominated by Governments to be appointed by the Chairman of the Commission on Human Rights at its forty-ninth session, on the basis of equitable geographical representation and in consultation with the regional groups in the Commission, with the following mandate:

(a) To identify obstacles to the implementation and realization of the Declaration on the Right to Development on the basis of information furnished by Member States and other appropriate sources;

(b) To recommend ways and means towards the realization of the right to development by all States.

2. The World Conference on Human Rights, which adopted the Vienna Declaration and Programme of Action on 25 June 1993, urged the Working Group to formulate promptly, for early consideration by the United Nations General Assembly, comprehensive and effective measures to eliminate obstacles to the implementation and realization of the Declaration on the Right to Development and to recommend ways and means towards the realization of the right to development by all States (para. II.72).

3. The Working Group held its first session from 8 to 19 November 1993, its second session from 2 to 13 May 1994, its third session from 3 to 14 October 1994 and its fourth session, from 15 to 26 May 1995. The report on its first session (E/CN.4/1994/21 and Corr.1 and 2) was submitted to the fiftieth session of the Commission on Human Rights and the reports on its second and third sessions (E/CN.4/1995/11 and E/CN.4/1995/27, respectively) were submitted to the fifty-first session of the Commission on Human Rights.

4. In its resolution 48/130, the General Assembly welcomed the convening of the first session of the Working Group on the Right to Development and requested the Secretary-General to report to the forty-ninth session of the General Assembly on the activities of the organs, programmes and institutions of the United Nations system to implement the Declaration on the Right to Development.

5. In its resolution 1994/21, the Commission on Human Rights took note with appreciation of the report of the Working Group on its first session and welcomed its recommendations. It welcomed the efforts made by the Working Group, which are increasingly oriented towards the establishment of a permanent evaluation mechanism in the future, to follow up the implementation of the Declaration on the Right to Development. It urged the Working Group to make recommendations on the implementation of the right to development, taking into account policies at the national and international levels, particularly towards the creation of a favourable international economic climate which would be more responsive to the needs of the developing countries.

6. In its resolution 1994/11, the Commission on Human Rights, concerned about the repercussions of structural adjustment programmes on the realization of economic, social and cultural rights and noting with regret the negative effects of the policies adopted to face situations of external debt on the enjoyment of economic, social and cultural rights, requested the Working Group to pay particular attention in its deliberations to the social repercussions of the policies adopted to face situations of external debt on the effective enjoyment of economic, social and cultural rights.

7. In its resolution 49/183, the General Assembly, taking note with appreciation of the continuing work of the Working Group on the Right to Development during its three sessions, called upon the Commission on Human Rights to continue to make proposals to the General Assembly, through the Economic and Social Council, on the future course of action on the question, in particular on practical measures for the implementation and enhancement of the Declaration, taking into account the conclusions and recommendations of the Global Consultation on the Realization of the Right to Development as a Human Right and the reports of the Working Group on the Right to Development.

8. In its resolution 1995/13, the Commission on Human Rights recognized the need to address the obstacles that impede the implementation of the Declaration on the Right to Development and the enjoyment of economic, social and cultural rights all over the world. Aware of the fact that the Working Group on the Right to Development had identified the problem of foreign debt as one of the obstacles to the implementation of the Declaration on the Right to Development, the Commission also requested the Working Group to continue to pay particular attention in its deliberations to the social repercussions of the policies adopted to face situations of external debt on the effective enjoyment of economic, social and cultural rights and to make recommendations in this regard.

9. In its resolution 1995/17, the Commission on Human Rights took note with appreciation of the reports of the Working Group on the Right to Development on its work at its second and third sessions, and welcomed its recommendations. It welcomed the efforts made by the Working Group, which are increasingly oriented towards the establishment of a permanent evaluation mechanism in the future to follow up the implementation of the Declaration on the Right to Development in accordance with the pertinent resolutions of the Commission and the General Assembly.

10. In that resolution, the Commission urged the Working Group to continue to identify ways and means and suggest further concrete measures to promote an international economic environment which is more responsive to the needs of the developing countries, particularly the least developed among them, so as to allow the right to development to be implemented.

11. In the same resolution, the Commission decided that the Working Group would hold two sessions, each for a two-week period, in April and September 1995 respectively, to formulate its recommendations for submission to the Commission at its fifty-second session. It also decided that the reports of the Working Group on its work should, along with other relevant documentation relating to development, be made available to the General Assembly at its fiftieth session

in the context of the celebration of the fiftieth anniversary of the United Nations.

12. The Working Group appreciates the exceptional decision of the Commission on Human Rights and the confidence the Commission has thus shown in it.

13. It further regards this decision of the Commission on Human Rights as a tribute paid by the international community to the United Nations for its remarkable work in the field of promotion and protection of human rights in the world during its 50 years of existence.

14. At the same time this gesture by the Commission on Human Rights emphasizes the importance of the right to development, which is henceforth recognized as a universal and inalienable right forming part of fundamental human rights. It expresses the hope of the international community, at the dawn of the twenty-first century, to see its ambition fulfilled: to arrive at the effective and universal enjoyment of this right by all and throughout the world, thanks to international cooperation and solidarity.

15. During its fifth session, the Working Group considered a draft general report prepared by Mr. Mohamed Ennaceur, Chairman-Rapporteur (E/CN.4/AC.45/1995/CRP.1).

16. After discussing and amending the draft report, the Working Group adopted the present report, which is submitted in accordance with the above-mentioned resolutions.

17. The present report was not adopted by consensus due to the opposition expressed by Mr. Silvio Baró Herrera, expert from Cuba and his alternate, Mr. Adolfo Curbelo Castellanos, for reasons clearly indicated in annex I.

Methodology

18. At its first session, the Working Group set up a methodology for its work and held an exchange of views on fundamental concepts relating to the right to development. It also began a dialogue with representatives of international organizations who participated at the session and held a general debate on an initial approach to the obstacles. The Working Group reviewed the obstacles identified in the various documents produced by the Secretariat, including the report of the Secretary-General on the Global Consultation on the Realization of the Right to Development. It also reviewed obstacles identified by representatives of the international institutions who participated at the first session. The list of obstacles considered by the Working Group at that session is contained in its report on its first session (E/CN.4/1994/21).

19. At its first session, the Working Group considered that updated information from Governments and intergovernmental and non-governmental organizations was lacking in order to determine the obstacles. It therefore recommended that additional information be sought from Governments, international institutions, and intergovernmental and non-governmental organizations and, to this end, drew up preliminary guidelines and a checklist, indicating the issues that the Working Group wished to raise in a dialogue with these actors.

20. At its second session, the Working Group focused its attention on the obstacles to the implementation of the Declaration as they relate to the work of the United Nations, its programmes and the agencies directly linked to it, as well as the work of the international financial institutions. At that session, it continued the dialogue begun at its first session with representatives of various international bodies and agencies with a twofold objective: (i) to obtain further information on the implementation of the right to development in their programmes and activities and evaluate the obstacles to its implementation; (ii) to explore in a preliminary manner, and in cooperation with those institutions, ways and means by which they implement the right to development or could do so in the future.

21. At the same session, the Working Group identified a number of obstacles on the basis of the report of the Global Consultation, the information transmitted by the specialized agencies and contained in the report of the Secretary-General submitted in accordance with Commission on Human Rights resolution 1993/22 (E/CN.4/AC.45/1994/2 and Add.1), as well as on the exchange of views with representatives of the specialized agencies who attended the session. The Working Group also formulated a number of recommendations. The list of obstacles identified by the Working Group and its recommendations are contained in its report on its second session (E/CN.4/1995/11).

22. During its third session, the Working Group focused its attention on the implementation of the Declaration by Governments and on the contribution of non-governmental organizations. It proceeded to identify further obstacles on the basis of information submitted by Governments and non-governmental organizations and contained in reports of the Secretary-General, as well as on the exchange of views with representatives of Governments and non-governmental organizations. The list of obstacles identified by the Working Group at that session and its recommendations are contained in its report on its third session (E/CN.4/1995/27).

23. At its fourth session, the Working Group examined the implementation of the Declaration on the Right to Development by Governments, as well as contributions to its implementation of treaty monitoring bodies, regional commissions, world conferences and summits. It focused its attention, in particular, on the establishment of mechanisms to follow up the implementation of the Declaration. The Working Group discussed the structure of its general report to be considered and adopted at its fifth session and elaborated a broad outline (E/CN.4/1996/10).

24. The Working Group was unable to analyse all aspects of its mandate by the end of its mandate. It believes that the process should continue in order to formulate recommendations to assist Governments in developing policies and programmes to implement the integral and multi-dimensional concept of development.

25. The Working Group believed that it would be useful to make all the reports it had prepared in the course of carrying out its mandate available to the General Assembly and the Commission on Human Rights for their consideration.

Opening and duration of the session

26. The fifth session of the Working Group on the Right to Development was held from 27 September to 6 October 1995 at the Palais des Nations, Geneva. It was opened by its Chairman-Rapporteur, Mr. Mohamed Ennaceur (Tunisia). The Working Group held eight plenary sessions.

27. At its first meeting, on 27 September, the High Commissioner for Human Rights, Mr. Jose Ayala Lasso, addressed the Working Group.

28. In order to assist the Working Group in drafting amendments submitted during the discussion of the draft report, it was decided to set up an open-ended drafting committee under the chairmanship of Mr. Stéphane Hessel (France). The drafting committee held four meetings.

Composition of the Working Group and attendance

29. The Working Group on the Right to Development at its fifth session consisted of the following 15 experts: Mr. Silvio Baró Herrera/ Mr. Adolfo Curbelo Castellanos* (Cuba), Mr. Mohamed Ennaceur (Tunisia), Mr. Alexandre Farcas (Romania), Mr. Orobola Fasehun (Nigeria), Mrs. Ligia Galvis (Colombia), Mr. Tan Seng Sung* (Malaysia), Mr. Stuart Harris (Australia), Mr. Stéphane Hessel (France), Mr. Boris A. Tsepov (Russian Federation), Mr. Niaz A. Naik (Pakistan), Mr. Pedro Oyarce (Chile), Mr. Pang Sen (China), Mr. Risto Veltheim* (Finland) and Mr. Vladimir Sotirov (Bulgaria).

30. The list of experts as well as observers of States members of the Commission on Human Rights, of other States Members of the United Nations and of non-governmental organizations who attended the first, second, third and fourth sessions is contained in the corresponding reports of the Working Group.

31. The list of participants at its present session is contained in annex II.

Adoption of the agenda

32. The Working Group adopted the agenda for its fifth session on the basis of the provisional agenda (E/CN.4/1996/10). The agenda as adopted is contained in annex III.

Documentation

33. In order to perform the tasks entrusted to it, the Working Group took as a basis a draft general report of the Working Group on the Right to Development prepared by Mr. Mohamed Ennaceur, Chairman-Rapporteur. The Working Group had

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* Appointed as alternate experts in accordance with Commission on Human Rights resolution 1994/21.

also before it the reports on its first, second, third and fourth sessions (E/CN.4/1994/21, E/CN.4/1995/11, E/CN.4/1995/27, E/CN.4/1996/10) as well as the report on the Global Consultation on the Realization of the Right to Development as a Human Right (E/CN.4/1990/9/Rev.1).

34. In addition, the Working Group had before it reports prepared by the Secretary-General, in particular the reports containing information transmitted by Governments (E/CN.4/AC.45/1994/4 and Add.1; E/CN.4/AC.45/1995/2 and Add.1; E/CN.4/AC.45/1995/3 and Add.1), United Nations bodies, specialized agencies and intergovernmental organizations (E/CN.4/AC.45/1994/2 and Add.1; E/CN.4/AC.45/1994/6 and Add.1) and non-governmental organizations (E/CN.4/AC.45/1995/5 and Add.1).

35. The complete list of documents before the Working Group at its first, second, third and fourth sessions is contained in the corresponding reports of the Working Group.

Historical review of the stages leading up to the establishment in 1993 of the Working Group on the Right to Development

36. For over 20 years, the international community has attached importance to the universal realization of the right to development.

37. The Commission on Human Rights requested the Secretary-General of the United Nations, in its resolution 4 (XXXIII) of 21 February 1977, 1/ to undertake a study on the international dimensions of the right to development as a human right in relation with other human rights based on international cooperation.

38. The following year, the Commission of Human Rights, in its resolution 4 (XXXV) of 2 March 1979, 2/ for the first time recognized the right to development as a human right and requested the Secretary-General of the United Nations to undertake a study on the conditions required for the effective enjoyment by all peoples and all individuals of the right to development.

39. The various reports, followed by discussions in the Commission and the General Assembly, led to the adoption of resolution 37/199 in which the General Assembly declared that the right to development is an inalienable human right and emphasized that the United Nations should give attention not only to the human rights aspects of development but also to the developmental aspects of human rights. In its resolution 37/200, the General Assembly recognized that the realization of the potentialities of the human person in harmony with the community should be seen as the central purpose of development and affirmed that everyone has the right to participate in, as well as to benefit from, the development process.

40. After examining the various reports submitted to it, the Commission on Human Rights decided in its resolution 36 (XXXVII) of 11 March 1981 3/ to establish a working group of 15 governmental experts who were to submit a report with concrete proposals for implementation of the right to development and for a draft international instrument on this subject.

41. The draft declaration on the right to development was adopted in final form by the General Assembly in its resolution 41/128 of 4 December 1986.

42. The Commission convened the Working Group of Governmental Experts on the Right to Development at Geneva from 5 to 20 January 1987 to submit proposals concerning concrete measures to promote the right to development. The Working Group submitted two reports in which it, inter alia, invited the Secretary-General of the United Nations to organize a global consultation on the fundamental problems posed by the implementation of the Declaration and the criteria which might be used to identify progress in the realization of the right to development.

43. The global consultation was held at Geneva from 8 to 12 January 1990 and gave rise to a report (E/CN.4/1990/9/Rev.1) which defined the right to development as a human right; drew attention to the interdependence between human rights and development strategies; reviewed the obstacles to the implementation of the right to development as a human right; devised criteria which might be used to measure progress in implementing the right to development; and made recommendations for national and international action by States, intergovernmental organizations, treaty organs and non-governmental organizations.

44. Nevertheless, since the adoption of the Declaration on the Right to Development there has not been a political consensus on it between the Member States in the Commission on Human Rights, the Economic and Social Council and the General Assembly.

45. A political consensus in the international community on the right to development was achieved for the first time at the World Conference on Human Rights, which recognized the right to development as a universal and inalienable right and an integral part of the fundamental rights of the human person, the human person being the central subject of development.

46. This consensus was strengthened by the Cairo Declaration adopted at the International Conference on Population and Development, the Copenhagen Declaration adopted at the world Summit for Social Development and the Declaration and Platform for Action approved at Beijing at the fourth World Conference on Women.

47. This brief historical review underlines the fact that the establishment of the Working Group on the Right to Development coincided with the adoption in 1993 by the World Conference on Human Rights of the Vienna Declaration and Programme of Action and therefore the Working Group has regarded its task as the continuation of previous efforts as well as the beginning of the new phase in the work of the Commission on Human Rights more firmly directed towards the implementation and further enhancement of the right to development.

I. SCOPE AND IMPLICATIONS OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

A. Scope of the Declaration on the Right to Development

48. One of the essential components of the Working Group's mandate is to formulate recommendations with a view to overcoming the obstacles to the implementation and realization of the Declaration on the Right to Development. Before going on to identify those obstacles the Working Group thought it appropriate to analyse, in the first chapter of this report, the scope of the Declaration on the Right to Development and to extract from it the rules and principles which the international community seeks to apply through the numerous resolutions of the Commission on Human Rights, the Economic and Social Council and the United Nations General Assembly as well as the Vienna Declaration and Programme of Action.

49. The proclamation of the Declaration on the Right to Development in 1986 was unquestionably a landmark in the history of human rights.

50. This new international instrument established new concepts and formulated a new human right: the right to development. It thus reflects the continuation of a movement of ideas that has developed in the field of human rights, particularly since the Second World War; the international community's ambition to draw up increasingly lofty human rights standards in order to enable humanity to attain the greatest possible freedom, dignity and well-being; and a will to update the concepts of development and human rights and to emphasize their interdependence in the light of the experience of past years, 10 years since the entry into force of the International Covenants on Human Rights and 25 years since the launch of the first United Nations Development Decade.

1. The Declaration on the Right to Development forms part of a continuous movement of ideas which has marked the past 50 years

51. The constituent principles of the right to development were formulated long before 1986 and have been gradually hammered out in various instruments of international law over a period of 50 years.

52. In 1944 the International Labour Conference first formulated, in the Philadelphia Declaration, 4/ the essential principles which were later developed in the Declaration on the Right to Development, associating human rights with development:

> "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
>
> "... all national and international policies and measures, in particular those of an economic and financial character, should be judged in this

light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective".

53. These principles were subsequently confirmed in the Charter of the United Nations, in particular in Articles 55 and 56. Article 55 of the Charter provides that:

"With a view to the creation of conditions of stability and well-being which are necessary ..., the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

54. Article 28 of the Universal Declaration of Human Rights also contains what may be considered one of the premises for the right to development inasmuch as it affirms the existence of common values, respect for which can be ensured only through cooperation and the creation of appropriate national and international conditions.

55. An implicit recognition of the interdependence of human rights and development is perceptible in the preamble to the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, which provides that:

"... the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights".

56. In 1968 the interdependence of human rights and development was reiterated more explicitly in the Proclamation of Tehran, 5/ which provides that the achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development.

57. In 1969 their interdependence was further emphasized by the Declaration on Social Progress and Development: 6/ "Social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice".

58. At the beginning of the 1970s the notion of the right to development made its appearance in the literature and was the subject of studies by several specialists in international law. 7/

59. In 1977 and 1979 the resolutions of the Commission on Human Rights 8/ progressively brought out the notion of the right to development as a human right: a notion confirmed and developed by the General Assembly in its resolutions 37/199 and 37/200 already cited.

60. The Declaration on the Right to Development founded the right to development and first defined it as

> "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".

61. Thus, 37 years after the proclamation of the Universal Declaration of Human Rights and 20 years after that of the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, the emergence of the concept of the right to development emphasizes the interdependence of human rights and development and establishes a new standard in the field of human rights.

2. The Declaration on the Right to Development reflects the international community's ambition unceasingly to raise the level of protection of the human person and of his/her freedoms, dignity and well-being

62. The Declaration on the Right to Development embodies a comprehensive view of human rights and development.

63. The right to development combines a comprehensive conception of development in its economic, social, cultural and political dimensions and a requirement of whole and entire realization of all human rights and fundamental freedoms and of the self-determination of peoples.

64. Consequently, the right to development cannot be reduced to the sum of the civil, political, economic, social and cultural rights or be confused with development itself. In instituting the right to development, the Declaration goes beyond a mere juxtaposition of human rights, and lays particular emphasis on their indivisibility and interdependence. It goes beyond the traditional conception of economic, social and cultural development by integrating in it the political dimension, basing it on popular participation and social justice, and focusing it on the human being, who is both its artisan and its chief beneficiary.

65. Furthermore, the Declaration on the Right to Development provides a dynamic conception of development. Development is no longer described in fixed, static terms. It is a continuous process of improving the well-being of the whole population and of all individuals.

66. This dynamic view of development raises the level of the new right even higher; the well-being of the human person becomes an increasingly lofty

objective and calls for continuous effort from individuals, the community and the State.

67. Thus, the Declaration on the Right to Development sets a particularly high standard for the protection of human dignity by instituting the multidimensional and integrating concept of the right to development.

68. It is true that, in so doing, it serves a legitimate ambition of the international community to enable mankind to reach the highest possible level of dignity, freedom and well-being. But it also stems from a will to correct the adverse results recorded both in the realization of human rights and in the implementation of development, and to emphasize the interdependence of these two concepts.

3. The Declaration on the Right to Development stems from the will of the international community to apply to the strategies pursued so far in the field of human rights and development the corrections needed to arrive at a comprehensive and integrated view of human rights and development

69. The Declaration on the Right to Development aims to close the split caused in the field of human rights by the formulation of two separate instruments in 1966: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

70. As soon afterwards as 1968 the Proclamation of Tehran drew attention to the danger of this dissociation of human rights by proclaiming that: "Since human rights and fundamental freedoms are indivisible, the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible".

71. The Declaration on the Right to Development points out that "All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights". Thus, all human rights should be protected in an equal and balanced way.

72. Again, by giving a comprehensive definition of development and representing it to be a simultaneously economic, social, cultural and political process, the Declaration on the Right to Development reflects the international community's will to revise national and international development strategies in the light of the disappointing experience of several United Nations Development Decades. Despite the efforts made at the national and international level in favour of development, massive and flagrant violations of human rights and inequalities within and between nations merely increase. Illiteracy, poverty, unemployment and social scourges are growing worse in many parts of the world, among the industrialized but particularly among the developing countries.

73. In calling for a comprehensive view of human rights and development, the Declaration on the Right to Development has established and revalued the organic link between development and human rights: this is its most noteworthy contribution. Hence, according to this new approach based on experience, any denial of human rights constitutes an obstacle to development, while a development that failed to take into consideration respect for all human rights would be incomplete. Each of the categories of human rights constitutes an essential component of the right to development, which becomes the resultant of the promotion of each and all of these rights.

B. Political and practical implications of the Declaration on the Right to Development

1. The concept of the right to development

74. The main contribution of the Declaration on the Right to Development is that for the first time it formulates the basis of the concept of the right to development.

75. The Declaration on the Right to Development proclaims in its article 1 that "the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized".

76. The right to development is multidimensional, integrated, dynamic and progressive. Its realization involves, firstly, the full observance of all human rights, namely: economic, social, cultural, civil and political rights. Secondly, it embraces all the different concepts of development of all the development sectors, namely sustainable development, human development and the concept of the indivisibility, interdependence and universality of all human rights. The unity of these functions is manifested in the conjunction of all the different development sectors: economic development, social development, political development, overall cultural development and the definition of both national and international development policies.

77. While the human person is central to the right to development, that right has its individual and collective dimensions: it can be exercised individually and collectively, through organizations, associations and trade unions.

78. Realization of the right to development is the responsibility of all the actors in development, within the international community, within States at both the national and international levels, within the agencies of the United Nations system, other intergovernmental agencies and the non-governmental organizations, as well as among all human beings, men, women, children, young people, adults, indigenous groups, ethnic minorities and countries, large and small, developed and developing.

79. The provisions of articles 3 and 4 of the Declaration bring out another characteristic of the right to development, which is realized at both the national and the international levels. The right to development should be

realized first at the national level. It entails in particular "equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income" (art. 8, para. 1). The right to development is consequently centred upon equality of opportunity at the national level.

80. Realization of the right to development also engages the individual and collective responsibility of States and necessitates simultaneous and mutually complementary action at the national and international levels. The right to development exists at both the national and the international level and entails measures which States must take separately and jointly.

81. The primary bases for realization of the right to development are to be found in the Declaration on the Right to Development and in the undertakings made by Governments at world summit conferences such as the World Summit for Children (New York, 1990), the United Nations Conference on Environment and Development (Rio de Janeiro, 1992), the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), the Fourth World Conference on Women (Beijing, 1995) and the World Summit for Social Development (Copenhagen, 1995).

82. The Working Group also considered that realization of the right to development is based on other relevant human rights instruments.

83. The realization of the right to development requires international cooperation based on full respect for the principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations.

84. In linking the right to development with international cooperation, the Declaration proclaims that "States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development" (art. 3, para. 3). It holds further that "as a complement to the efforts of developing countries, effective international cooperation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development" (art. 4, para. 2).

85. The international dimension of the right to development and the importance attached by the Declaration to international cooperation and international assistance to developing countries constitute another characteristic of this new right, which is a right of peoples as much as of individuals.

86. Linking the right to development with international cooperation brings new actors into the realization of the right: the United Nations, specialized international organizations and regional organizations. The United Nations and all the specialized international organizations are called upon to put international cooperation into practice, and they provide the right setting for cooperation by States and for joint action to attain, among other objectives, universal respect for and observance of human rights, of which the right to development is henceforth an integral part.

87. The participatory dimension is an essential component of the right to development, which is defined as the right of every human person and all peoples to participate in and enjoy development.

88. This definition makes popular participation, democracy and social justice the essential elements of the right to development. Popular participation is a multifaceted concept. It is generally referred to as a right which is guaranteed by national legislation and which embraces all recognized rights in the various spheres of civil, political, economic, social and cultural life.

89. Democracy is exercised in a country through the participation of all its citizens in the choices that concern them. As stated in the Vienna Declaration, democracy is the free expression of the will of peoples to choose their political, economic, social and cultural systems and to participate in all decisions affecting their existence.

90. Participation also implies fair distribution of the results of development among all those who have participated in it. Thus participation both precedes and follows development inasmuch as development should benefit from the participation of one and all and they, in return, should enjoy its benefits.

91. Since, however, this right to development is a right of peoples, the participation of peoples in the decisions concerning them entails greater democratization of international institutions and fairer international economic relations. This is the sense in which to construe the provisions of the Declaration that: "States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights" (art. 3, para. 3).

92. The right to development is consequently a means of securing democracy at the national and international level, an improvement in incomes, health and social services, the elimination of poverty and the improvement of living conditions for all peoples. As was pointed out in the report on the Global Consultation on the Realization of the Right to Development as a Human Right, "a major goal of democracy is to achieve a just social order. To be fully effective, democracy itself depends upon the existence of a just and democratic social order, including a fair distribution of economic and political power among all sectors of national society, and among all States and peoples". 9/

93. Moreover, the participatory nature of the right to development gives development an essentially subjective meaning. The individuals and peoples affected by development should alone determine its objectives and the methods of achieving it.

94. At the Global Consultation the participants emphasized in particular that

> "what constitutes development" is largely subjective, and in this respect development strategies must be determined by the people themselves and adapted to their particular conditions and needs. No one model of development is universally applicable to all cultures and peoples. All

development models, however, must conform to international human rights standards". 10/

95. The Working Group on the Right to Development came to the same conclusion on stating in its 1994 report 11/ that development cannot be seen as an imported phenomenon. The implementation of the right to development can only be the result of national policy and strategy which necessarily take into consideration the specific context of each country. There is no ready-made model which can be applied universally by all States for the implementation of the right to development.

96. Popular participation, an essential condition for the right to development, raises among other problems that of minorities and indigenous peoples. Since the right to development is the right of one and all, its realization obviously entails taking into consideration the particular needs and specific characteristics of minorities, indigenous peoples and the most vulnerable population groups.

97. It should be remembered that, in the Vienna Declaration and Programme of Action, the World Conference on Human Rights urged "States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities" (para. II. 26) and called upon Member States to ensure the full and free participation of indigenous peoples in all aspects of society (para. II. 31).

98. It should also be remembered that active popular participation largely depends on the existence of organizations, associations and intermediary structures whose activities and development should be encouraged by States.

99. As pointed out in the report on the Global Consultation, the position may be summed up by stating that the right to development includes:

the right to effective participation in all aspects of development and at all stages of the decision-making process;

the right to equal opportunity [in] access to resources;

the right to fair distribution of the benefits of development;

the right to respect for civil, political, economic, social and cultural rights;

the right to an international environment in which all these rights can be fully realized.

100. All these rights are complementary and interdependent, and they apply without distinction to all human beings (para. 143 of the report on the Global Consultation).

101. After this brief analysis of the various dimensions, characteristics and implications of the right to development it will be useful to see what the

Declaration on the Right to Development affords by way of further guidelines that are necessary for its application and implementation.

2. Other guidelines laid down in the Declaration on the Right to Development

102. Although the Declaration on the Right to Development focuses on the right to development as its main component, it also lays down guidelines designed to promote the development and realization of human rights.

(a) Peace, disarmament and development

103. The maintenance of international peace and security is a prerequisite for the realization of the right to development, while disarmament would make it possible to speed up development.

104. Article 7 of the Declaration provides that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released are used for comprehensive development, in particular that of the developing countries.

105. The Working Group considers that peace is essential for the realization of the right to development, just as development is essential for the settlement of disputes and putting an end to conflict and war. Peace in the broadest sense is a need shared by all regions and all countries in the world and felt in all aspects of social life.

106. Consequently the communication media must play a key role in disseminating and nurturing peace.

107. The Working Group also considers that violence, conflict and the use or threat of the use of force in all its forms - international as well as domestic - absorb economic and human resources and are major obstacles to development. Greater emphasis should be placed on the prevention and resolution of these problems and on tackling their root causes so as to create a peaceful international and domestic environment for the realization of the right to development.

108. States should also do their utmost to reduce military expenditure and to channel available resources to the realization of the right to development.

(b) Indivisibility and interdependence of human rights

109. The principle of the indivisibility and interdependence of human rights is reiterated and constantly emphasized by the Declaration on the Right to Development. The application of this principle is regarded as an essential condition for realization of the right to development. It is therefore particularly important that equal attention and urgent consideration should be

given to the implementation, promotion and protection of civil, political, economic, social and cultural rights (art. 6, para. 2).

110. States have the major responsibility in this regard. Article 6, paragraph 1, of the Declaration emphasizes the obligation of States to cooperate with a view to promoting encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all. States should accordingly take steps to put an end to failure to observe civil and political rights, as well as economic, social and cultural rights (art. 6, para. 3). But this directive also concerns the United Nations, its human rights bodies and all the specialized international agencies, whose activities should confirm and strengthen that interdependence.

(c) The active participation of women in the development process

The active participation of women in the development process is regarded as a condition for the realization of the right to development and should therefore be ensured by effective measures.

111. The Working Group considers that the full participation of women in the economic, social, cultural and political life of their community can be achieved only if States recognized the ability of women to assume that responsibility by adopting appropriate legislation and if society becomes aware of the need to eliminate hidden discrimination, in other words, when the factors which contribute to prejudice and to the tendency to regard women as incapable of being active subjects of development are eradicated from people's minds. In this connection, mention should be made of the provisions of the Vienna Declaration and Programme of Action to the effect that the human rights of women are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community.

112. The World Conference on Human Rights urges Governments, institutions, intergovernmental and non-governmental organizations to intensify their efforts for the protection and promotion of human rights of women and the girl-child.

(d) Indigenous peoples

113. The Declaration on the Right to Development is particularly applicable to indigenous peoples, whose experience of development clearly demonstrates that human rights and development are inseparable.

114. At the Global Consultation on the Realization of the Right to Development as a Human Right it was pointed out that forced development has deprived those peoples of their fundamental rights, in particular the right to life and the right to their own means of subsistence, two of the most fundamental of all rights. Indigenous peoples have been, in fact, victims of development policies which deprive them of their economic base - land and resources - and they are almost never the beneficiaries. It was further emphasized that the most destructive and prevalent abuses of indigenous rights are a direct consequence

of development strategies that fail to respect their fundamental right of self-determination.

115. It should be mentioned that the World Conference on Human Rights urged States to ensure the full and free participation of indigenous peoples in all aspects of society, especially when questions concerning them are under consideration.

II. OBSTACLES TO THE IMPLEMENTATION AND REALIZATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

116. After analysing the information sent by Governments, governmental organizations and agencies and non-governmental organizations, the Working Group considered the obstacles impeding the implementation of the Declaration and the realization of the right to development. It considered that the list of obstacles covered is neither definitive nor exhaustive, in that the realization of the right to development is a process whose aim is to overcome obstacles and to prevent circumstances in which many obstacles emerge.

117. With this objective in mind, the Working Group has identified the various levels at which the question of the realization of the right to development has been analyzed, namely:

(i) The national level;

(ii) The international sphere;

(iii) The United Nations system and the intergovernmental agencies.

118. Before directly addressing these obstacles the Working Group deems it necessary to point out that there are also a number of limitations to the implementation and realization of the Declaration on the Right to Development arising out of the legal status and content of the Declaration.

A. Obstacles at the national level

119. There are many obstacles at the national level to the implementation and realization of the Declaration on the Right to Development. They derive from the circumstances of each country in the economic, social, political and cultural spheres. These obstacles at the national level are of a general nature or relate to the spheres just mentioned.

120. Among the general obstacles, the Working Group wishes to draw attention to the following:

(i) The absence of a global concept of development and the lack of strategies and programmes corresponding to this global and multidimensional idea of the right to development;

(ii) The negative aspects of international policies such as structural adjustment and economic liberalization;

(iii) The negative aspects of domestic economic and social policies;

(iv) Inadequate participation by provinces and towns in the definition of regional and local development programmes;

(v) The persistence of inequality of opportunity between men and women and of forms of discrimination against women and minority groups, such as indigenous peoples and other racial groups;

(vi) Lack of popular participation in the formulation, implementation and monitoring of development programmes;

(vii) Failure to observe the right of peoples to self-determination and sovereignty over their natural resources.

1. Obstacles of a social and cultural character

121. In the exercise of its mandate, the Working Group undertook the task of determining obstacles of a social and economic character. This established that the main obstacles to the realization of the right to development are the persistence of precarious conditions in the spheres of health, education, housing and employment and led to the general conclusion that in many of the world's countries even basic needs still are not being met.

122. High illiteracy rates persist, preventing the effective dissemination of information on human rights, and formal education curricula do not always take account of the need to train children and young people in a culture of human rights, tolerance and respect for democracy.

2. Obstacles of an economic character

123. From the economic standpoint, one obstacle to the realization of the right to development is the tendency to view development solely form the standpoint of economic growth, which has resulted in an imbalance between economic strategies and social and cultural policies and programmes. Another aspect is the persistence of marked differences in income distribution; this not only impedes the realization of development but also contributes to an increase in extreme poverty and the proliferation of internal conflicts. Other obstacles in the economic sector are increasingly high unemployment, certain aspects of structural adjustment policies, and economic liberalization in some countries whose national industries were not prepared to withstand international competition.

3. Obstacles of a political character

124. From the political standpoint, obstacles include persistent violations of human rights, the absence of a civil culture, the lack of popular participation and of guarantees for the exercise of civil and political rights and the persistence of domestic violence and violence arising out of armed conflicts,

drug trafficking, racism, intolerance, xenophobia and other forms of discrimination.

125. The Working Group wishes to draw particular attention to the increasing violence against women and children as a major obstacle to realization of the right to development, and also to ethnic conflicts and conflicts arising out of religious fanaticism and other forms of extremism. From the general political standpoint, the Working Group considers a further obstacle to be the lack of participation of women at higher levels of political decision-making.

126. Further obstacles identified in this field are lack of good and effective governance, mismanagement and lack of transparency and accountability on the part of institutions.

127. Obstacles to the realization of the right to development also stem from deficiencies in public administration, bureaucratic cumbersomeness, corruption and deficiencies in the administration of justice.

4. Situations affecting specific countries

128. Other obstacles to the implementation and realization of the Declaration on the Right to Development are inherent in the particular situation of some countries.

129. Armed conflicts in several parts of the world have led to serious loss of life and destruction of economic and social structures, vast population shifts within and outside countries of origins and grave violations of human rights, in particular, the right to life and security.

130. The same applies to ethnic conflicts, violence and various manifestations of extremism and religious fanaticism, which have led to massive violations of human rights and impede the implementation of the Declaration on the Right to Development.

131. Several countries have been induced to apply structural adjustment programmes dictated by the deterioration of their economic situation and the appearance of severe imbalances in their public finances. The adverse effects of such programmes have been pointed out in several reports.

132. In its 1994 report, the Working Group on the Right to Development stated that the notion of short-term sacrifices and social costs, said to be necessary and inevitable during the period of transition constituted an obstacle to the implementation of the right to development.

133. Very often the economic model on which structural adjustment programmes are based has made it impossible to overcome the particularly serious social problems of the countries concerned, especially poverty, and in some cases has increased the concentration of wealth, exclusion and marginalization. On examining this question, the Working Group observed in particular that, unless care was taken, the social "safety nets" advocated in structural adjustment programmes risked becoming a substitute for macroeconomic policies of social development and thus maintaining existing social imbalances; that would present

a severe obstacle to the implementation of the Declaration on the Right to Development.

134. Non-recognition of the rights of ethnic or religious minorities or of indigenous peoples, discrimination between different population groups, lack of participation by women and denial of women's rights are further obstacles to the implementation and realization of the Declaration on the Right to Development.

B. The international environment

135. In the course of its various sessions the Working Group on the Right to Development identified a number of international obstacles to the implementation and realization of the Declaration on the Right to Development. These obstacles must be analysed in the context of international political and economic relations characterized by the globalization of the economy and in a specific historical context marked by the end of the cold war and East-West confrontation, the emergence of regional economic groupings and the concentration of economic, financial and technological power in the hands of a limited number of countries.

136. This situation has particularly limited the scope for manoeuvre open to States, whose national policies are no longer guided solely by their perception of their national interest or by national constraints and requirements but also - and increasingly - by their international contractual commitments under the treaties, conventions and other international agreements to which they have acceded.

137. Consequently, international strategies and policies are no longer determined by purely national considerations but also, and increasingly, by the constraints imposed by interdependence and globalization, which do not encourage, and may therefore impede, the implementation and realization of the provisions of the Declaration on the Right to Development.

138. All countries are part of an international economic system. Although many countries remain imperfectly integrated into it, others are excessively vulnerable to its instability. Development is hampered by external debt problems, the decrease in external resource flows, sharply declining terms of trade and mounting barriers to market access. Inadequate technological cooperation has prevented many countries from improving the efficiency of resource use, thus adversely affecting their international competitiveness and further inhibiting their integration into the world economy.

139. However, the difficulties of access to the world trading system are an enormous obstacle to the implementation of the right to development. At present, that system often discriminates against the developing world by limiting its advantage in low labour costs, while the price of many primary commodities has tended to decline.

140. Attention is drawn to the role of the most highly industrialized nations in creating a favourable international economic environment and a degree of coherence in the macroeconomic policies on which the realization of the right to

development on a world-wide scale and the implementation of the provisions of the Declaration on the Right to Development essentially depend.

141. The pursuit of globally responsible macroeconomic policies by those countries whose economic strength shapes the international economic environment is essential to all development efforts. The role of the major economies in world finance remains preponderant. Their policies on interest rates, inflation and exchange rate stability are particularly significant. Exchange rate volatility substantially compounds the debt problem through its effect on interest rates, foreign exchange earnings and reserves, and debt servicing. The policies the major economies follow in their domestic affairs will be of decisive importance in a world increasingly characterized by global capital markets.

142. It has become a statement of the obvious that the implementation of the Declaration on the Right to Development and the realization of that right are conditional upon the existence of fair economic relations and a favourable economic environment. The World Conference on Human Rights again emphasized this in the Vienna Declaration and Programme of Action, which call upon the international community to promote effective international cooperation for the elimination of obstacles to development and the realization of the right to development. 12/

143. It is equally obvious, however, that effective international cooperation needs to be pursued by the major economies. This entails, in addition to political will, the existence of common motives and shared interests. Up to the present, however, even though the Declaration on the Right to Development has the support of a renewed political consensus, its implementation does not appear to be eliciting sufficient commitment at the international level. This is one of the great obstacles to the implementation of the Declaration.

144. Effective international cooperation for development cannot succeed unless the major economies make it their own objective. No mechanism exists by which the major economies can be induced to make globally beneficial structural change in their own economies, or to adopt more globally responsible economic, fiscal and monetary policies. At present, economic policy coordination among the major economies centres on the Group of Seven industrialized countries. Repeated efforts by the developing world, such as the current attempt to create a Group of Seven-Group of Fifteen (Summit Level Group for South-South Consultation and Cooperation) connection, have failed.

145. Other international obstacles to the implementation of the Declaration on the Right to Development include the inadequacy of the volume of official development assistance (ODA) by comparison with the needs of the developing countries. That volume, which was fixed by the international community in the 1970s at 0.7 per cent of the GNP of the developed countries, has so far been attained by only four countries. 13/ It should nevertheless be noted that appeals for official development assistance have become more and more pressing and numerous as needs - especially those of the least developed countries, which have steadily increased in number - have grown.

146. Moreover, a large share of ODA is increasingly being channelled into meeting urgent needs created by natural disasters or armed conflicts, which engulf a large proportion of financial resources in keeping the peace and keeping millions of refugees and displaced persons alive.

147. Another feature of international economic relations that forms a great obstacle to the implementation of the Declaration on the Right to Development is the acute problem of the developing countries' foreign debt.

148. One of the effects of the developing countries' foreign debt is to reduce even further the already inadequate national resources devoted to meeting the essential needs of the people and to development. According to the report of the Secretary-General of the United Nations on the "agenda for development", "in the last decade, indebted developing countries have had to transfer on average between 2 and 3 per cent of their gross domestic product (GDP) abroad; in some instances transfers have amounted to 6 per cent or more of GDP. Perversely" - the Secretary-General ironically concludes - "some developing countries have now become net exporters of financial resources". 14/

149. That the external debt burden borne by the developing countries should be alleviated is one of the demands made by the World Conference on Human Rights, which called upon the international community to make all efforts to help alleviate the external debt burden of developing countries, in order to supplement the efforts of the Governments of such countries to attain the full realization of the economic, social and cultural rights of their people. 15/

150. A further obstacle to the implementation of the Declaration on the Right to Development lies in international trade relations, which are characterized by protectionism and a lack of predictability and transparency. It is true that the main purpose of the Marrakesh agreements concluded after the Uruguay Round is to end protectionism and promote greater transparency and clearer predictability in that connection. Difficult access to the world trading system, however, is an enormous obstacle to development. At present, that system often discriminates against the developing world by limiting its advantage in low labour costs, while the price of many primary commodities has tended to decline.

151. One characteristic of international trade that impedes development and poses an obstacle to the implementation of the Declaration on the Right to Development is the persistent instability in the prices of many primary commodities and the general deterioration of the terms of trade. In many developing countries, external financial resources largely depend on exports of primary commodities, the prices of which are in sharp decline. According to a recent report of the Common Fund for Commodities, 42 out of 123 developing countries depended on exports of one or two primary commodities for 70 per cent of their foreign earnings. For more than 90 per cent of the 50 African countries studied in 1990, over half their total export earnings came from such commodities. 16/

152. The adverse negative effect of United Nations sanctions on the social and economic development of third countries was pointed out as one of the emergent new obstacles.

153. Among major obstacles to the implementation of the Declaration on the Right to Development, mention should be made of the environmental problems which concern all countries. In the developing countries, long-term development is threatened by the pressure of the people's immediate needs. In the developed countries, high levels of consumption and production are contributing to major global environmental and resource depletion problems. On every side, devastation of the environment and mismanagement of natural resources constitute serious obstacles to development and hence to the implementation of the Declaration on the Right to Development.

C. Obstacles involving the United Nations system

154. It is one of the purposes of the United Nations, in virtue of the Charter, "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion" (Art. 1, para. 3). One of the organs of the United Nations, the Economic and Social Council, is responsible for coordinating the activities of the specialized agencies and making "recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all (Art. 62, para. 2).

155. The United Nations and the specialized agencies are driving forces in the field of promotion and protection of human rights, and they are thus leading actors in the implementation and realization of the Declaration on the Right to Development.

156. In practice, however, and as is clear from the dialogue which the Working Group has had with the representatives of several United Nations organs and specialized agencies, one of the major obstacles to the implementation and realization of the Declaration on the Right to Development is lack of preparedness on the part of most United Nations organs and specialized agencies to play that role in the implementation and realization of the Declaration.

157. The right to development was not, of course, included as such in the priorities or programmes of the international organizations. The concept of the right to development was nowhere to be found in the outlines of those organizations' programmes either as a universal right or as a multidimensional right.

158. Generally speaking, in fact, the international organizations have indeed maintained a piecemeal, and sometimes partial, approach to human rights inasmuch as those rights are sometimes realized selectively.

159. The guidelines laid down in the Declaration on the Right to Development do not seem to have led to any appropriate substantial changes in the discussions, the approach or the programmes of the United Nations, of its organs or of the specialized agencies.

160. The view taken of development, far from being influenced by the eminently integrating and comprehensive nature of the concept of the right to development,

continues to be fragmentary and sectoral, according to the specific terms of reference of each of these organs and organizations.

161. Another major obstacle to the implementation of the Declaration on the Right to Development is lack of coordination within the Organization and the system as a whole.

162. Despite its inclusion in the Charter and the injunctions of the World Conference on Human Rights calling for increased coordination in favour of human rights within the United Nations system, such coordination does not seem to be effective, at any rate so far as the implementation and realization of the Declaration on the Right to Development are concerned. Every treaty organ, every United Nations programme and every specialized agency has its own terms of reference; they are answerable only to their principals, and even the major programmes of the United Nations enjoy an autonomy comparable with that of the specialized agencies.

163. The existing coordinating machinery - the Administrative Committee on Coordination (ACC) and the Consultative Committee on Programme and Operational Questions (CCPOQ) - does not appear to have taken up the question of coordination as applied to the implementation of the Declaration.

164. Nor does the Economic and Social Council appear to have placed on its agenda the specific question of the implementation of the Declaration and the realization of the right to development.

165. Moreover, one shortcoming of the United Nations system which can be regarded as an obstacle to the implementation of the Declaration is the tendency to separate economic development from social development and macroeconomic policies from social objectives.

166. Over the years, the Bretton Woods institutions have primarily focused on the immediate issues of macroeconomic stability and economic growth, leaving the long-term social aspects of development to other entities within the United Nation system. Changes in the course and character of global development are leading to a reassessment of this dichotomy.

167. As a corollary of that dichotomy, another impediment to the implementation of the Declaration on the Right to Development stems from the unequal distribution of resources among the specialized agencies and United Nations funds; only a limited portion of those resources is allotted to the social organizations, whereas the growing scale of social problems is increasingly recognized all over the world.

168. Another impediment is the unequal representation of women at high decision-making levels within the United Nations, international institutions as well as intergovernmental institutions.

169. In reviewing a number of obstacles which, in its opinion, impede the implementation and realization of the Declaration on the Right to Development, the Working Group makes no claim to have listed all such obstacles. It nevertheless considers that, in scale, complexity and diversity, the obstacles

reviewed are commensurate with the ambitious objectives of the Declaration on the Right to Development and provide an idea of the efforts which remain to be made by the international community in order to give effect to the principles set forth in that Declaration.

170. The study of those obstacles has also enabled us, to some extent, to locate the shortcomings, assign the responsibilities and designate those who are called upon to work for the effective realization of the Declaration on the Right to Development.

III. PROPOSALS AND RECOMMENDATIONS

171. After identifying, in the preceding chapter, the obstacles to the implementation of the Declaration on the Right to Development, in this chapter the Working Group presents a number of proposals and recommendations concerning, first, the implementation of the Declaration by States and international organizations, and secondly, the measures to be taken by all players in the international community for the purposes of the realization of the right to development.

172. Given the extent and complexity of the task that has been entrusted to it, the Working Group is aware that these proposals and recommendations cannot be exhaustive.

173. As the Working Group has already observed, the implementation of the Declaration on the Right to Development depends upon States and on people, who are to take necessary steps collectively and individually, and on the United Nations system and its specialized international agencies, including the Bretton Woods institutions.

A. Implementation of the Declaration on the Right to Development by States

174. International human rights treaties are meant to be applied by the Governments of those States Parties that have duly ratified them.

175. The Declaration on the Right to Development, however, does not have the status of an international treaty. As pointed out in chapter II of this report, it has been couched in terms that are neither binding nor sufficiently operational and no "implementation machinery" or reporting system has been provided as required under General Assembly resolution 41/120 on setting international standards in the field of human rights.

176. The Working Group therefore considers that the application of the Declaration on the Right to Development will have to be sought, not through its reformulation or replacement by some other instrument, but rather by a number of measures, some of which have already been outlined in its interim reports.

177. The Declaration on the Right to Development has been strengthened by the recent world conferences, in particular by the World Conference on Human Rights,

the World Summit for Social Development, the International Conference on Population and Development as well as the Fourth World Conference on Women. At these conferences, the right to development was reaffirmed as a universal and inalienable right, and the universality and interdependence of all human rights were acknowledged once again.

178. The declaration and programmes of action of these conferences as well as those of the United Nations Conference on Environment and Development contain recommendations addressed to all States concerning the creation of national and international conditions conducive to the realization of the right to development.

179. To achieve the final objective of improving the quality of the life of all human beings, the Working Group considers that development programmes must be global in character, so that they take into account the principles contained in the Declaration on the Right to Development, the realization of all human rights, the concept of sustainable development and all the economic, social, cultural and political factors which provide the basis for improving the quality of life of all individuals.

180. The Working Group consequently submits the following recommendations.

181. The Declaration needs to be disseminated and better known by and among those responsible for applying it.

182. It is incumbent on the Centre for Human Rights to set up a programme for disseminating and promoting the Declaration in its full context among Governments, parliaments, senior administrators responsible for development and planning, organizations and associations. In doing so, it should use all appropriate means, such as printing, translation, the holding of seminars and the delivery of lectures in universities and human-rights training institutions, and request the cooperation of such appropriate institutions as the Interparliamentary Union, human rights institutes, universities and non-governmental organizations.

183. The preparation of such a programme would have to include, in addition to such basic concepts as those set forth in the Declaration on the Right to Development, those formulated at the Rio, Vienna, Cairo, Copenhagen and Beijing World Conferences with respect to durable development, the interdependence of development, democracy and human rights, global development and the importance of the role of women in development, as well as the ideas set out in the Working Group's report.

184. The Working Group would like to recall what it stressed in its interim reports, to the effect that "any strategy to promote the implementation of the Declaration would benefit from being able to rely, inter alia, on an information and communication drive designed to provoke appropriate changes in the attitudes and behaviour of the parties concerned".

1. Governments should be encouraged to send voluntarily periodic reports on the application of the Declaration on the Right to Development

185. The Working Group notes below the two conditions which are fundamental if the right to development is to be fully attained as a human right.

186. At the national level, to make these operational, it will be necessary, first for minimum targets and objectives to be set to measure the progress made and to induce Governments to continue their efforts.

187. Such targets, which would take account of various national priorities and situations, could help to identify obstacles to the realization of the right to development both nationally and internationally, thus facilitating their elimination.

188. These targets and objectives should be set within an overall cross-sectoral development strategy illustrating how they contribute to an overall national development strategy.

189. Secondly, some form of reporting mechanism should be considered so as to measure the progress made in the realization of the right to development.

190. Such reports might, for example, highlight the progress made in formulating new global development strategies or policies, international development cooperation, the promotion of popular participation and social justice and the simultaneous promotion of full respect for civil, political, economic, social and cultural rights. Their frame of reference would thus be the interrelation between development, human rights and democracy, as spelled out in the Vienna Declaration and Programme of Action.

191. This reporting process, which would be voluntary, would fit within any coordinated reporting system that might be developed. In its review of the reports, the follow-up mechanism to be set up by the Commission on Human Rights should direct itself to the implications of the broader question of what progress (or otherwise) has occurred in implementing the right to development. In particular, it would have the function of linking the national and international aspects of the implementation of the right to development, with the aim of bringing them to the attention of the appropriate organs and institutions of the United Nations system. It would not be expected to assess and report on individual country reports and would therefore not duplicate the work of the treaty bodies.

192. All Governments should therefore be encouraged to set objectives, taking into account their economic capabilities, and a reasonable deadline for creating conditions conducive to the realization of the right to development and regularly to report voluntarily to the Commission on Human Rights on the progress made in realizing those objectives.

193. In this respect, the Working Group emphasized in its earlier reports that in the final analysis, the right to development involves more than development itself; it implies a human rights approach to development, which is something

new. The Working Group considers that for the right to development to be fully effective as a human right at least two elements are required: first, the need to establish minimum objectives or targets; and second, the need for a process of accountability (cf.: E/CN.4/1995/27, para. 63).

2. Governments should be encouraged to appoint existing administrative units or to create such units to serve as focal points for collecting, receiving and disseminating any useful information on the application of the Declaration on the Right to Development

194. These government structures, once created, could establish links with similar units in other countries, thus encouraging an exchange of information relating to the right to development.

195. Once appointed and trained, those in charge of these units would receive from or send to the Centre for Human Rights all manner of relevant information on the application of the Declaration on the Right to Development.

196. The Centre for Human Rights could hold regional or subregional seminars to provide appropriate training in human rights in general and the right to development in particular for those in charge of such focal points.

3. The role of non-governmental actors in the implementation of the Declaration on the Right to Development

197. One of the major advances achieved in recent years, to which the Working Group attaches particular importance, is the increasing contribution of non-governmental actors, including trade unions, churches, non-governmental organizations and associations of committed citizens, in the promotion of all human rights at the national, regional and international levels.

198. Their contribution has been decisive in the progress made by new concepts and new governmental commitments at the recent World Conferences in Rio, Vienna, Cairo, Copenhagen and Beijing.

199. The Working Group expresses its conviction that such non-governmental actors have an increasing role to play in the dissemination and implementation of the Declaration on the Right to Development. Non-governmental organizations active in the field of human rights and those working in the field of development should combine their efforts.

200. At the national level, non-governmental actors should promote popular participation in all activities relating to the realization of the right to development as a multidimensional human right. They should contribute to the drafting and follow-up of national plans which set objectives for the implementation of the Declaration, taking into account conditions and institutional procedures.

201. At the regional and international levels, the contribution of non-governmental actors should be increased, ensuring that adequate influence is exercised by society over the activities of regional and international organizations responsible for the realization of the right to development.

B. Implementation of the Declaration on the Right to Development by international institutions

202. In the international sphere, the Working Group considers the implementation of the Declaration on the Right to Development to be incumbent on the United Nations system and its related institutions and agencies.

203. In view of the Working Group's conclusions in chapter II that, among other things, the United Nations and its specialized agencies have not specifically included the implementation of the Declaration among their activities or in their programmes, and given the largely sectoral approach of the specialized agencies and the limited effective coordination among them, notably with respect to human rights, the Working Group addresses the following recommendations to the various United Nations organs dealing with this matter.

1. Treaty bodies

204. The Working Group, considering that all human rights are universal, indivisible and interdependent and that the right to development is an integral, multidimensional and holistic right, believes that the treaty bodies can contribute, within the framework of their mandates, to the application of the right to development.

205. In conformity with their respective mandates, the treaty bodies can contribute to the realization of the right to development by including the question in their agendas. In their reports, the treaty bodies can provide useful information, making it possible to evaluate the progress made in the realization of the right to development and the obstacles encountered. The Working Group suggests that the Commission on Human Rights, in an appropriate resolution, should invite these bodies to consider the question and inform the Commission of their proposals as appropriate.

206. The Working Group further recalls that proposals have been advanced calling for a study of possible ways of achieving a consolidated national reporting system, taking into account the different review objectives. It feels that such a reform could favour the application and implementation of the Declaration.

2. The United Nations system

207. The multidimensional character of the right to development requires that all specialized agencies and appropriate bodies act in a joint and coordinated manner. These agencies and bodies have an essential role to play in the realization of the right to development. In order to achieve this objective, better coordination must be established in the implementation of the Declaration

and in the formulation of programmes that the agencies and bodies have to execute in accordance with their mandates.

208. Having considered the recommendations formulated by the various entities that submitted information, the Working Group recommends that:

(i) There should be better coordination between all the specialized agencies and appropriate bodies, the Bretton Woods institutions, the World Trade Organization and intergovernmental organizations in the formulation of strategies and the determination of programmes of action; there should be increased cooperation in this field; and there should be permanent consultation and coordination between the agents responsible for the execution of the programmes as well as an exchange of information.

(ii) The principles contained in the Declaration on the Right to Development must be incorporated in the policy guidelines of these institutions, and the latter should establish principles of action, clear criteria and priorities based on these principles.

(iii) When formulating strategies and defining priorities, it is necessary to ensure an equilibrium between the economic, social and political aspects of development. There should be greater transparency, democratization and coordination in the activities of the institutions of the United Nations system and in the collection and allocation of resources.

(iv) States and the entire international community should contribute to strengthening the management of the United Nations system with a view to the implementation of the Declaration and step up their activities aimed at promoting the realization of the right to development.

(v) The organs of the specialized agencies should incorporate in their agendas the question of the right to development so that they can formulate criteria for action and give appropriate instructions for the execution of their programmes in accordance with those criteria.

(vi) Each institution should establish or give increased support to an administrative unit or a liaison officer with responsibility for coordination with the other agencies and bodies and for the circulation of information.

3. Bretton Woods institutions and intergovernmental organizations

209. Given the integrative, multidimensional and comprehensive character of the right to development, all international and intergovernmental institutions are important actors in the realization of that right. With a view to the realization of the right to development, the Bretton Woods institutions, the World Trade Organization and other intergovernmental organizations must take

into account the principles contained in the Declaration, and to this end, the Working Group recommends:

(i) That an equilibrium should be established between the economic, social, cultural and legal aspects of development, taking into account the various concepts of development contained in the Declaration and in the declarations and programmes of action adopted at various summits and world conferences in recent years.

(ii) That there should be permanent consultation and coordination between these organizations and entities of a social, humanitarian, cultural and educational character.

(iii) That each organization should have an administrative unit or liaison officer responsible for facilitating such consultation and coordination and the circulation of information.

4. The Economic and Social Council

210. The Economic and Social Council, as the coordinating organ of the aforementioned agencies and bodies, when adopting resolutions on the question, should establish global objectives that are clear, precise and feasible and contain directives for all institutions on the realization of the right to development. The Working Group recommends that the Economic and Social Council should include the question of the implementation of the Declaration in its agenda, so that it can periodically examine the information on the question submitted to it by the international institutions and the Commission on Human Rights.

5. The Commission on Human Rights

211. The Commission on Human Rights, the organ especially responsible for the promotion and protection of all human rights, is the body which can launch initiatives as part of a programme involving appropriate United Nations bodies and the specialized agencies and permitting progress to be made in implementing the Declaration on the Right to Development. The Commission should take the necessary steps to ensure the follow-up of the work initiated by the Working Group.

212. The Working Group recommends that the Commission on Human Rights should establish a specific programme for the promotion and implementation of the right to development in which it provides guidelines to its subsidiary organs and to treaty bodies on the way in which the entire United Nations system and, in particular, the human rights bodies can monitor the realization of the right to development as a synthesis of all basic human rights. At the same time, the Commission on Human Rights should recommend that the Centre for Human Rights devote some of its advisory services resources to assisting Governments in the formulation and execution of programmes aimed at the realization of the right to development.

6. The High Commissioner for Human Rights

213. The Working Group recommends that the High Commissioner for Human Rights, in his capacity as overall coordinator of human rights, should make proposals to all specialized agencies and bodies of the United Nations system with regard to the implementation of activities aimed at the realization of the right to development.

7. The Centre for Human Rights

214. The Working Group recommends that the Centre for Human Rights should:

(i) Implement the request contained in Economic and Social Council decision 1995/258 concerning the creation of an administrative unit for the coordination of activities aimed at the realization of the right to development;

(ii) Formulate a programme for the dissemination of the Declaration on the Right to Development;

(iii) Prepare a fact-sheet containing information on the right to development;

(iv) Elaborate criteria, programmes and educational material for the promotion of the right to development, within the framework of the Decade on Human Rights Education.

C. Realization of the right to development

1. Realization of the right to development is an objective that will require the implementation of a long-term strategy

215. The Working Group is convinced that the realization of the right to development is a long-term undertaking, characterized by its duration and requiring perseverance and sustained efforts on the part of the international community as a whole.

216. The world-wide realization of the right to development presupposes fundamental changes in national and international policies, in the behaviour of decision makers, in the working methods and programmes of United Nations bodies and international specialized agencies, and in international economic relations with a view to ending violations of human rights, poverty, illiteracy, exclusion and the social ills afflicting billions of individuals throughout the world today.

217. The extent and ambitious nature of the objective are matched by its seriousness and the urgent need to place it at the top of the agenda of the international community at the dawn of the twenty-first century.

218. This objective has the advantage of in fact combining several objectives currently being pursued by the international community in the framework of a number of programmes and international agencies, including those originating from the five recent major world conferences on environment and development, human rights, population and development, social development and women. Such an objective can be achieved only in the context of a long-term strategy, whose deadlines, stages, means of action and participants have been previously defined, specified and identified.

219. The Working Group is convinced that, without a long-term strategy benefiting from the effective contribution of all the players, first States and then the international organizations and non-governmental organizations concerned, it is difficult to envisage, even in the more or less distant future, the attainment of so ambitious an objective as universal enjoyment of the right to development.

220. With a view to promoting this strategy, the Working Group considers that the group of experts which it recommends that the Commission on Human Rights set up should make recommendations on such questions as the way in which the existing strategy could be taken into consideration in the sphere of development and human rights, the way in which the objectives of the agenda for development currently being discussed by the General Assembly could be integrated and the way in which the recommendations which have emerged from the above-mentioned five world conferences could be implemented.

221. It could also recommend the monitoring system to be used for monitoring and stimulating execution of this strategy, and also the nature of the reports and the information they would contain in order to reflect the progress achieved in the realization of the right to development.

2. Realization of the right to development is a universal objective involving simultaneous national and international efforts

222. As explained earlier, the realization of the right to development is an objective which, to various degrees, concerns all countries. Obviously, those most directly concerned are the developing countries and they will be the major beneficiaries of universal realization of the right to development.

223. However the developed countries too would benefit from universal realization of the right to development.

224. The Working Group recalls that the acute problems of unemployment, poverty and social exclusion are common to all countries and call for a revision of development policies and strategies and their adaptation to the concept of global development as defined in the Declaration on the Right to Development.

225. Moreover, realization of the universal right to development calls for increased international cooperation and the co-existence of measures that must be adopted nationally and internationally.

226. These measures will, of course, be all the more effective if determined and coordinated as part of the aforementioned international strategy.

227. However, until such a strategy has been drawn up, the Working Group feels that it would be helpful to mention a number of measures which would be all the more effective if accorded top priority on the future agenda for the universal realization of the right to development.

228. While insisting on the fact that these activities must be conducted concurrently, the Working Group has grouped them according to whether they fall within the national or international purview.

(a) Creation of domestic conditions conducive to the realization of the right to development

229. The realization of the right to development is essentially the responsibility of States. The right to development must become a way of making all human rights operational through national polices and development plans and through concrete programmes such as those relating to health, education, housing, poverty, youth, women, the elderly, disabled persons, children, minorities and the environment.

230. Greater transparency and accountability, better governance and the maintenance of racial harmony and social stability are needed in the decision-making process concerning the realization of the right to development. The elimination of mismanagement and the adoption of measures for the eradication of corruption and the impunity enjoyed by those responsible for it are essential to the realization of all human rights, including the right to development.

231. Having considered the information received in the course of its mandate, and after the dialogue held with representatives of Governments, specialized agencies and bodies and non-governmental organizations, the Working Group considers that conditions conducive to the realization of the right to development must be created at the national level. Considering the differences between countries with respect to levels of development and political, social and cultural conditions, each country should elaborate its own model, taking its specific context into account. Nevertheless, the Working Group recommends that, in formulating such models, countries should take into account the declarations and programmes of action adopted at the world conferences and the integrative and multidimensional character of the right to development.

232. For the realization of the right to development at the national level, the Working Group presents the following recommendations:

(i) Implementation of integrative and global development policies and programmes

233. These programmes should contain economic, social, cultural and political elements. States, as the principal actors in the realization of the right to development, should guarantee the exercise of human rights and fundamental freedoms, strengthen democracy and ensure an honest and transparent public administration and an efficient and impartial administration of justice.

234. At the economic and social levels, the programmes should ensure an equilibrium between economic growth and the improvement of social conditions of all human beings so that all have the possibility of satisfying their needs with regard to health, education, housing, employment and recreation. Considering the global character of development, all models of development should have as their ultimate objective an improved quality of life for all human beings.

235. From the cultural viewpoint, States should ensure equality in the conditions of life for all cultural and ethnic groups, and establish the conditions necessary for guaranteeing cultural, religious, linguistic, ideological and political pluralism.

236. Considering the interdependent relations between States, all States should create conditions at the national level which will contribute to the resolution of problems of priority to the international community, such as those relating to the environment, migration, drug trafficking, different forms of racism and xenophobia, and the social marginalization of social sectors such as youth, the elderly and the unemployed.

237. The Working Group also recommends the adoption, as a matter of urgency, of measures to eliminate internal conflicts and to guarantee peace at the national level. Peace is an essential condition for the realization of the right to development and can only be achieved through the realization of development programmes that guarantee the wellbeing of all, eliminate inequalities in the distribution of income, guarantee social security and develop solidarity and tolerance as the foundations of social relations.

238. While the Working Group does not consider it fit to recommend models of development that would not take into account the reality of each country, it nevertheless considers it appropriate to suggest that it might be possible to experiment with models of integral development in which all national and international entities dealing with development could cooperate in an integrated and coordinated manner. Such programmes can be realized in the various regions with a view to formulating operative recommendations on integral development addressed to Governments.

(ii) Promotion of all human rights

239. The Declaration on the Right to Development lays particular stress on the need to give equal weight to civil and political rights, on the one hand, and to economic, social and cultural rights, on the other.

240. The realization of the right to development could not be envisaged without respect for the principle of the indivisibility and interdependence of human rights.

241. Even though the importance placed on any given category of human rights differs from one country to another, the Working Group considered that greater efforts should be demanded of Member States in the promotion of economic, social and cultural rights because of the absence of appropriate national legal provisions and mechanisms ensuring the same degree of entitlement to these rights as to civil and political rights.

242. In this connection, the Working Group would like to stress the importance of continuing the examination of optional protocols to the International Covenant on Economic, Social and Cultural Rights, as recommended by the Vienna Conference.

243. The Working Group also supports the recommendation by the Vienna Conference concerning the preparation of a system of indicators to measure progress in the realization of economic, social and cultural rights. Such indicators would considerably facilitate the realization of the right to development.

(iii) Promotion of population participation, democracy and social justice

244. The Working Group considers that the main actors in the realization of the right to development at the national level, besides the State as the entity responsible for the creation of conditions and the adoption of measures necessary for its realization, are individuals, groups and peoples who are beneficiaries and actors.

245. Popular participation is one of the bases of the right to development. It both precedes and follows the development process and implies the effective participation of each and every person in this process and the right to enjoy an equitable share in the results of this process.

246. The Working Group considers that participation should be extended to indigenous peoples and to ethnic, religious and linguistic minorities, youth and children and that the elderly should also be considered as active agents in all the processes of formulation, implementation and monitoring of development programmes.

247. The civilian population plays a very important role in the effective implementation of development programmes, and the establishment of monitoring mechanisms, from the perspective of civilians, can help to enhance the effectiveness of public administration.

248. Popular participation must extend to all aspects of community life, including the definition and formulation of development policies and programmes, as well as their implementation and the monitoring and supervision thereof.

249. Participation also implies tax and income-sharing policies that will provide everyone with an equitable share of the fruits of development according to his or her contribution.

250. Lastly, participation implies solidarity both within the community and between the individuals and various groups that make up any given national society. Indeed, the participation of all in the development process and the results thereof can hardly be imaged without effective solidarity among the individuals and groups that make up a society.

251. Such solidarity results from the fact that the right to development is both an individual right and a collective right involving reciprocal duties on the part of both the individual and the community, as stated in the Declaration on the Right to Development (art. 2).

252. In fact, the right to development implies duties for the individual towards the community, while only the community can ensure his development and which is called upon to promote a political, social and economic order conducive to development, democracy and guaranteeing respect for human rights.

(iv) Promotion of education in the realization of the right to development

253. Realization of the right to development will require a process of learning, education and training that will inculcate in young and old alike the appropriate attitudes and behavioural patterns and create a culture that recognizes the human right to development based on the realization of all human rights.

254. It is consequently necessary for Governments, when creating conditions conducive to the realization of the right to development, to improve both youth and adult educational and training systems so that people may become aware of their rights and be prepared to play their role in society in a responsible manner. Educational programmes would benefit by including anything that can contribute to reinforcing in individuals the concept of peace, respect for fellow human beings and human dignity even in adversity.

255. The United Nations Centre for Human Rights should collaborate closely with UNESCO in the implementation of the latter's education for democracy programmes and provide advice on the formulation of education programmes on human rights and the right to development.

256. The Working Group recommends that the media be invited to participate in education on the right to development through programmes aimed at disseminating and studying the basic principles contained in the Declaration, and that the educational authorities implement such programmes in universities and in all educational institutions.

(b) Create international conditions conducive to the realization of the right to development

257. By insisting on the duty of States to cooperate in creating international conditions conducive to the realization of the right to development, the Declaration recalls the interdependence of national and international measure to achieve this on a universal scale.

258. In the opinion of the Working Group, one of the most important preconditions for the implementation and realization of the Declaration on the Right to Development is the creation of an international environment marked by justice and equity. Accordingly, full implementation and realization of the Declaration calls for a genuine democratization of international economic and political relations, a process that will negate the adverse consequences of the current process of globalization and foster a new climate of solidarity and international cooperation, in keeping with the growing interdependence observed world wide.

259. The high degree of global interdependence points to the need for the international community to understand its responsibility in the implementation

and realization of the Declaration. In this regard, the Working Group recommended a study of ways and means to help strengthen international cooperation and solidarity.

260. Creating a new climate of international cooperation and solidarity - a prerequisite for the democratization of international relations - requires both a firm political will at the national and international levels and far-reaching changes in the institutions and structures having responsibilities in the implementation and realization of the Declaration on the Right to Development.

261. Clearly, the Declaration on the Right to Development invites States to create a new international economic order.

262. As the Working Group is aware of the historical context in which the Declaration on the Right to Development was drawn up and adopted and of the changes that have since taken place on the international scene, it did not have to discuss the new international economic order in detail, leaving that task to other bodies better qualified than itself to do so.

263. The Working Group did, nevertheless, discuss ways and means of enabling the international community to create conditions conducive to the realization of the right to development.

264. As pointed out in the earlier chapters of this report, the right to development is, by its very nature, a right based on international cooperation, which is essential if this right is to be realized.

265. This organic relationship between the right to development and international cooperation has become even more apparent now that the economy functions on a world scale.

266. The increasingly obvious consequence of this globalization of the economy is that States have less room for manoeuvre and an increasingly tenuous influence over the development of their peoples.

267. The corollary of this economic globalization, then, is a need to strengthen international cooperation and solidarity, without which universal realization of the right to development will remain a dead letter.

268. While the Working Group is convinced that a strengthening of international cooperation and solidarity is essential for universal realization of the right to development, it is aware than there are major weaknesses in the abiiity of the United Nations system to make this cooperation effective and sufficiently strong to solve the acute problems currently facing the international community.

269. Indeed, the international community is not always able to lay down rules or institute appropriate mechanisms for eliminating the obstacles hindering the realization of the right to development at the international level. The Working Group has analysed these obstacles in this report and can do no more than recall the most important among them in the conviction that they should feature prominently in an international agenda for the realization of the right to development as the world enters the twenty-first century and that it is by

finding ways of overcoming them that the international community will create international conditions conducive to the universal realization of the right to development.

(i) Armed conflicts and the arms race

270. The Working Group has noted the prominence that the Declaration on the Right to Development gives to peace and security as essential conditions for realization of the right to development.

271. The serious problem of violence and terrorism, which has many sources, including transnational crime, also prevents the realization of the right to development.

272. The Working Group draws particular attention to the increase in violence against women and children, which is a major obstacle to realization of the right to development, and to ethnic conflicts and conflicts generated by religious fanaticism and other forms of extremism. In general, from a political standpoint, the Working Group considers a further obstacle to be women's lack of participation at senior levels of political decision-making.

273. The unprecedented levels of armed conflict around the world in recent years, and especially since the end of the "cold war", the violence and violations of human rights that follow in the wake of such conflicts, and the tens of millions of displaced persons and refugees are there to remind us that the right to development cannot be ensured around the world unless peace and security exist both within and between nations.

274. Humanitarian problems are particularly disturbing today because they absorb an ever-growing share of official development assistance, while at the same time the need for external assistance in the developing countries is growing on a par with poverty, hunger and the deterioration in the living standards and conditions of broad segments of the population.

275. The resources available for dealing with the consequences of armed conflicts throughout the world, including the reconstruction of economic and social systems and the reconciliation and the building of trust between former enemies are simply inadequate, while the mechanisms set up to prevent conflicts and maintain peace are unsatisfactory. The spread of conflicts and the magnitude of the humanitarian consequences are such as to require the international community to conduct an objective and responsible evaluation and take vigorous and efficient measures to end the spiral of armed conflicts and create conditions for peace and security without which the universal realization of the right to development will be little more than a good intention.

276. At the same time, a sustained international effort to end the various forms of the arms race would help both to maintain peace and release international financing for development purposes.

Other forms of violence

277. The Working Group recommends that the international community continue to make priority efforts to eradicate all forms of violence affecting present-day society, especially the violence of illicit drug trafficking, the illegal traffic in persons, xenophobia and all forms of discrimination, and that special attention be devoted to the elimination of violence against women.

(ii) International development financing

278. In his Agenda for Development, the Secretary-General of the United Nations concluded that development is in crisis. Two facts in support of that statement are particularly eloquent:

The growth in the number of countries known as "least developed countries", in which the standard of living of most of the population is inadequate to meet their minimum basic needs;

The inability of the international community to attain the goal it set 25 years ago of allocating a specific percentage of the gross national production (GNP) of the richest Member States for development financing (0.7 per cent).

279. As indicated above, this situation can be explained by a number of facts including the increase in armed conflicts.

280. Implementation and realization of the Declaration also mean that the current trend towards a reduction in the volume of financial resources earmarked for development assistance must be reversed.

281. The Working Group has noted with interest that the Copenhagen Summit discussed a system of international taxation as a possible way of financing international development cooperation.

282. This idea merits further consideration by the specialized international organizations, for one of the necessary conditions for the realization of the right to development remains the identification and mobilization of new sources of development financing.

(iii) Alleviation of the external debt of developing countries

283. The problem of the external debt of developing countries, particularly of the highly indebted low-income countries, is one that has frequently been mentioned as a serious hindrance to the realization of economic, social and cultural rights and hence to the realization of the right to development in those countries.

284. The Commission on Human Rights had asked the Working Group to devote some of its discussions and recommendations to this important matter.

285. While fully recognizing the importance of the question and the need to find an adequate international solution to the problem, the Working Group notes that

certain creditor Governments have already taken courageous steps to cancel or lighten the external debt of certain countries or to "recycle" the debt in development assistance and/or environmental protection programmes.

286. The Working Group cannot but emphasize and encourage such decisions and suggests that the external debt problem of developing countries be studied in its entirety and that it be the subject of a high-level debate in an appropriate international forum. Such a debate would be particularly effective if it was preceded by sufficient technical preparation involving, inter alia, national experts from creditor countries, certain debtor countries, the United Nations, the World Bank and the International Monetary Fund (IMF).

(iv) Ensuring the coherence of macroeconomic policies

287. Among the requirements for a positive environment for the realization of the right to development is a just and equitable world trading system that can reduce and ultimately eliminate protectionist practices, non-tariff barriers, unilateral measures and obstacles to market access, while continued efforts are made to adopt measures that will improve the situation of the deteriorating terms of trade of the developing countries' commodity exports.

288. Moreover, the benefits expected and hopes raised as a result of the liberalization of international trade and the globalization of the economy should not mask the possible disturbances such a situation can create and the adverse effects it can have on development.

289. The World Trade Organization (WTO) is responsible for ensuring that member States respect the rules and disciplines of international trade as set forth in the agreements signed at the conclusion of the Uruguay Round.

290. As long as their domestic policies are consistent with the rules of a liberal, multilateral trading system, the States members of WTO cannot do anything to influence the overall economic policies of Member States. Yet, the domestic economic policies and decisions of the major industrialized countries in particular, such as those affecting interest-rate or exchange-rate variability, can have a significant, and often adverse, impact on the smallest countries, especially the developing countries.

291. The Ministerial Conference at Marrakesh, at which the new international trade instruments were adopted, invited Member States and international economic, financial and trade institutions to work together to create conditions conducive to coherent macroeconomic policies throughout the world in order to create conditions that would in turn be conducive to growth and development.

292. In chapter II of this report, the Working Group notes that structural imbalances in the industrialized economies are a major barrier to the realization of the right to development and that effective mechanisms do not exist to allow the major industrialized economies to coordinate their macroeconomic policies so that they might become mutually reinforcing and lead to sustainable economic development in which other countries, particularly the developing countries, could fully participate.

293. The Working Group considers that the creation of an international economic environment conducive to the universal realization of the right to development would be greatly helped by the development of such an appropriate and effective mechanism and especially by the commitment of the major Powers to enhance the coherence of their economic policies and international cooperation in general.

294. As part of the reforms which should, in the experts' view, be introduced to improve the international economic environment, reference was made to the urgent need to reform the international monetary system in order to correct current distortions and discourage speculative financial transactions. Accordingly, the recommendations on international financial relations called on the international community to establish greater transparency in the activities of the international financial institutions and to strengthen consultations between those institutions and the Governments of Member States.

295. To achieve a more propitious climate for world development, the experts recommended the adoption of new international legislation and the creation of effective international institutions to regulate the activities of transnational corporations and banks, and in particular to resume the multilateral negotiations on a code of conduct for transnational corporations.

296. The Working Group proposes that the Economic and Social Council devote one of its substantive sessions to consideration of this question and that it do so in close cooperation with IMF, the World Bank and WTO. The effectiveness of such a session and its results would, naturally, depend on the extent of the technical preparation given to such a session by experts from the United Nations and the international institutions concerned.

CONCLUSION

297. It is somewhat surprising to note that nine years after its promulgation, and despite sustained pressure from the international community, the Declaration on the Right to Development has not yet been implemented nor its execution even begun.

298. However, this is not an unduly long period of time if one considers the many obstacles encountered and recalls that the International Covenants on Human Rights themselves did not enter into force until more than nine years after their adoption by the General Assembly.

299. Furthermore, during these nine years, important progress has been made to bring closer the day when the Declaration on the Right to Development will finally be implemented.

300. The reservations prompted by the Declaration have gradually waned and a consensus was reached in Vienna - and subsequently confirmed in New York, Cairo and Copenhagen - on the principles it embodies. The concept of the right to development has been progressively enhanced at these world conferences. The social summit in Copenhagen showed that poverty, social exclusion and unemployment are scourges common to all countries regardless of their current stage of development; this means that realization of the right to development is

a universal aspiration and not just, as was believed until recently, the claim of the developing countries alone.

301. As a result of this maturing period, the right to development now appears not only as a new norm but also as the keystone in the entire human rights structure and, at the same time, as an excellent addition that should enhance the realization of these rights throughout the world.

302. This being the case, realization of the right to development constitutes a response both to a new collective aspiration as the world enters the twenty-first century and to the need to complete and improve upon the task that the international community began fifty years ago in the field of human rights.

303. The Working Group, in the exercise of its mandate, has identified obstacles to the full realization of the right to development and has made some recommendations on that subject. The Working Group considers that this dynamic process must be continued.

304. For this reason, the Working Group recommends to the Commission on Human Rights that this work be continued by an intergovernmental group of experts with the following mandate:

(i) To continue to develop the conceptual aspect of the right to development;

(ii) To elaborate some guidelines for the full implementation of the Declaration on the Right to Development;

(iii) To elaborate a global strategy for the promotion of the full realization of the right to development.

305. The group of experts will work in close cooperation with the organizations of the United Nations system and the international financial institutions that deal with development issues. The group will also encourage the cooperation of non-governmental organizations.

Notes

1/ Approved by Economic and Social Council decision No. 229 (LXII) of 13 May 1977.

2/ Confirmed by Economic and Social Council decision 1979/29 of 10 May 1979.

3/ Confirmed by Economic and Social Council decision 1981/149 of 8 May 1981.

4/ Declaration adopted at the 26th session of the General Conference of ILO, held at Philadelphia in May 1944; the text of the Declaration is annexed to the ILO Constitution.

5/ Proclaimed by the International Conference on Human Rights at Teheran on 13 May 1968.

6/ General Assembly resolution 2542 (XXIV) of 11 December 1969 (art. 2).

7/ Keba M'baye: "Le droit au développment comme un droit de l'homme". RDH, 1972 (pp. 503-534).

8/ Resolutions 4 (XXXIII) of 21 February 1977 and 5 (XXXV) of 2 March 1979.

9/ Report on the Global Consultation (E/CN.4/1990/9/Rev.1), para. 148.

10/ Ibid., para. 155.

11/ E/CN.4/1995/27, paras. 76 and 77.

12/ Vienna Declaration and Programme of Action, para. I.10.

13/ Denmark, Netherlands, Norway, Sweden, "Agenda for development", report of the Secretary-General.

14/ Op. cit., para. 61.

15/ A/CONF. 157/24, para. 12.

16/ Common Fund for Commodities, Annual Report of the Director General on the Fund's Activities (1994).

Annex I

Declaration of opposition to the report adopted without consensus by the Working Group on the Right to Development at its fifth session prepared by the Cuban experts, Mr. Silvio Baró Herrera and Mr. Adolfo Curbelo Castellanos

1. Paragraph 14 of the report of the Working Group states that the report was adopted in spite of the clearly expressed opposition of the Cuban experts. This in itself raises serious questions as to the report's credibility, bearing in mind that according to all established procedures for exercises of this kind the report should have been adopted by a consensus of all members of the Working Group.

2. This statement sets out to explain, in order of importance, our reasons for opposing this report and dissociating ourselves totally from its content.

3. This declaration concerns the contents of the report as adopted without consensus at the last meeting of the Working Group on the evening of 6 October.

I. QUESTIONS OF CONTENT

4. The report originally submitted by the Chairman of the Working Group departed in its content from that of previous reports adopted by consensus, which set out the results of the first three sessions of the Working Group in accordance with its established mandate.

5. The Cuban expert stated early on that, regardless of the outcome of the current session of the Working Group, the content of previous reports should be accurately reflected. He therefore proposed that a drafting group should be established to make the necessary changes, on the basis of earlier reports, to the document prepared by the secretariat at the Working Group's request, which contained a list of obstacles that had been identified and measures to eliminate them, and any amendments and documents submitted by experts.

6. This proposal was particularly pertinent in view of the fact that the report was issued quite late, namely, at the beginning of the session.

7. Quite apart from the other objections made elsewhere in this statement, we wish to point out that the basic reason for our opposition to the report is one of substance.

8. Some parts of the report are worded in a way that could serve as grounds for actions that would be run counter to the very essence of the right to development and, in particular, for actions directed against those who have been its main proponents - the developing countries.

9. In this connection, we would point out that the report is slyly critical of the text of the Declaration on the Right to Development itself by alluding continually to the context and historical period in which it was adopted and

implying that parts of it pertain to a non-existent situation. It endeavours to substantiate this by referring to the changes which have occurred throughout the world in recent years.

10. For example, the report is selective in referring to the principles and content of the Declaration on the Right to Development. References to the following principles are omitted or reduced to a bare minimum (for ease of reference, the relevant articles of the Declaration are indicated):

(a) The full realization of the right of peoples to self-determination and to full sovereignty over their natural resources (art. 1, para. 2);

(b) The realization of the right to development requires full respect for the principles of international law concerning friendly relations and cooperation among States in accordance with the Charter of the United Nations (art. 3, para. 2);

(c) States have the duty to cooperate with each other in ensuring development and eliminating obstacles to development. States should promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights (art. 3, para. 3);

(d) The adoption of resolute steps to eliminate the massive and flagrant violations of the human rights of peoples affected by situations such as all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination (art. 5);

(e) The resources released by effective disarmament should be used for development, in particular that of the developing countries (art. 7).

11. These principles were omitted or reduced to irrelevant references throughout the report. This not only creates an unacceptable imbalance in the text as a whole, but also runs counter to the Declaration itself, article 9 of which states "All the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole".

12. This is not mere repetition, but a statement of the irrefutable. It is in fact unacceptable to omit aspects as fundamental as those mentioned above or to try to reinterpret what is stated in the Declaration or to decide which of its principles are viable or "realistic" and which are not.

13. The report's recommendations regarding international measures not only fail to respond to the all too real challenges raised in the Declaration on the Right to Development and to conform to the mandate established for the Working Group, but in many instances point to the supposed advantages of having international organizations or those in the United Nations system establish standards, indices or criteria to be applied by States at the national level or ask States for

reports to be used in assessing how far they have advanced in implementing the Declaration or realizing the right to development, including notions such as "good government".

14. One is led to wonder whether this is not much the same as legitimizing the conditions to which many developing countries are subjected or whether it does not fall under the heading of interventionism, which is the very antithesis of the right to self-determination.

15. What is the purpose of establishing minimum objectives to be met by countries at the national level and "requiring" them to submit reports? Perhaps this is an attempt to set priorities, but if this is the case, who sets them?

16. We cannot associate ourselves with a document which sets out to assign to the Bretton Woods institutions - the very institutions responsible for the structural adjustment policies imposed on developing countries - a pre-eminent role in the realization of the right to development, far less legitimize a future role for these institutions in monitoring States' activities in that respect.

17. The report blithely draws a veil over the situation of the 1980s, which still prevails in the vast majority of developing countries and is characterized by highly restrictive neo-liberal policies, the imposition of harsh conditions and requirements to be met by our countries in order to have access to the financial resources needed simply to meet obligations associated with external debt-servicing, privatization or the enormous socio-economic cost of such policies for vast segments of the developing world's population.

18. The Working Group's report aligns itself with the projected new 1990s image of the international financial and other institutions, such as the recently established World Trade Organization, as bodies concerned with development and the well-being of all nations.

19. Possibly one of the most negative aspects of the report is the attempt to eliminate, at least on paper, the differences between developed and non-developed countries, with the clear intention of presenting a false picture of the world in which we live. Nor will the reader find even a modest reference to the widening of the economic gap which exists between developed and developing countries as a consequence of the intensification of the process of unequal international distribution of wealth. The report endeavours to depict a non-existent consensus and thus distorts the truth.

20. The so-called "globalization" of the world economy is portrayed almost as a panacea, as if the marginalization of developing countries with regard to the major productive activities and trade and financial flows was not a fact. The report also overlooks the need for the transfer of advanced technologies to developing countries.

21. The report also avoids any mention of the developed countries' responsibility for current military expenditures and the arms trade, or of the role played by these two activities in reducing the resources which might be allocated to development.

22. In the caricature of reality which the report endeavours to present those responsible for the present plight of most of the world's countries are made to vanish as if by magic. There are apparently no differences between countries, despite the irrefutable fact that those differences are increasing. It is apparently of no importance that a few control more than 75 per cent of the world economy, while others - the vast majority of countries - must be satisfied with the remainder.

23. Worst of all is the attempt to place responsibility at the door of the developing countries. For example, in dealing with the decrease in development assistance, the report glosses over the fact that the developed countries have reduced the percentage of their gross domestic product allocated for assistance and endeavours to explain this decrease as the result of the larger number of aid requests received from developing countries.

24. Structural adjustment programmes are treated as a national obstacle of relevance to a few countries. Nothing is said about the fact that these programmes were imposed from outside, thereby absolving the international financial institutions of any responsibility whatsoever in that regard.

25. Similarly, environmental degradation in the developing countries is explained in terms of the immediate needs of their populations, whereas in the case of the developed countries, reference is made to levels of consumption. Yet here again, the responsibility of the developed countries for the damage to the global environment is not mentioned.

26. The problems of the developing countries are presented out of the international context in which those countries must develop, including the role played by transnational corporations, structural adjustment programmes and debt servicing.

27. Could this be an attempt to absolve the real culprits?

28. We cannot accept a document which endeavours to sweep aside the principles and content of the Declaration on the Right to Development and thus marks a step backward in the struggle being waged by the vast majority of countries in the international community for the full realization of this most fundamental of rights.

II. QUESTIONS OF FORM

29. Neither the draft report originally submitted by the Chairman-Rapporteur nor the report adopted without consensus conforms precisely to the structure agreed on at the Working Group's fourth session. The report should have reflected all the obstacles to the realization of the right to development, but failed to do so. Both the obstacles and the recommendations should be discussed in terms of the various levels and actors responsible and should convey an idea of the multifaceted nature of the obstacles and of the measures to be taken, thus highlighting the multidimensional nature of the right to development.

30. Because of the way in which the Working Group's final meeting was conducted, chapters II and III (which, according to the established mandate, ought to have been devoted, in the first case, to identifying obstacles and, in the second, to ways of eliminating them) are not structured in the same way. This gives rise to one of our major objections to the document, namely that chapter II of the report deals with obstacles for which there is no recommended measure in chapter III, while chapter III contains recommendations which do not correspond to any obstacles.

31. We also dissociate ourselves from the report because some major questions which should have been discussed at length so that adequate and viable recommendations could have been identified, were dealt with so superficially that the text contains blatant inconsistencies and contradictions which invalidate the content of some parts of the report. For example, the purportedly agreed texts dealing with such questions as monitoring arrangements, the reporting system and the extension of the mandate of the present Working Group or the creation of a new group of experts are extremely confused, as will be obvious to any reader.

32. The report goes in for wide-ranging conceptual digressions which are, to say the least, unnecessary.

III. PROCEDURAL QUESTIONS

33. At a number of open meetings of the Working Group, we protested against the completely inadmissible and arbitrary manner in which the Chairman of the Drafting Group, Mr. Hessel, and the Chairman of the Working Group, Mr. Ennaceur, conducted the working meetings. Their behaviour shows that they were basically interested in producing a document which retained the essence of the one originally submitted, regardless of the extent of agreement on substance. Accordingly, the various amendments or documents under discussion were deliberately rejected or considered favourably, depending on the circumstances and their content.

34. As a result of this arbitrary procedure, points on which there was little agreement were taken as adopted, including questions on which there was open disagreement or consideration of which was pending, while paragraphs which had not even been taken up were rejected. These questions are dealt with in detail above, in particular the major omissions from the document in question.

35. We have also been able to establish that the discussions held in the Drafting Group were not correctly reflected in the document distributed for consideration in plenary meeting. At the very least, this is particularly, although not exclusively, true for chapter III of the report. The Cuban expert pointed this out at the time, but received no reply.

36. After very carefully comparing our notes (which was something we did at the end of each meeting with the secretariat) against the document submitted, which purported to reflect the discussion in the Drafting Committee, we wish to make the following observations, which are merely examples and in no way exhaustive:

1. Elimination of paragraphs without any agreement having been reached in the Drafting Committee. This concerns, inter alia, the paragraphs on the need to evaluate the elimination of obstacles to the realization of the right to development and an introductory paragraph in section B.4 of chapter III, which was proposed by the Cuban expert;

2. Insertion of paragraphs or replacement of some paragraphs by others which had not been discussed. This applies to, inter alia, the part of the document dealing with non-governmental organizations and with the participation of the international financial institutions in a working group of experts on the matter;

3. Inclusion of paragraphs on the "reporting system", even though there had been no discussion of those paragraphs in the Drafting Group and even though it had been decided to postpone consideration of them;

4. Replacement of the text denouncing protectionist practices, non-tariff barriers, unilateral coercive measures and obstacles to market access by a text which had not been agreed and from which the word "coercive" and all reference to discriminatory measures had been left out;

5. Transfer of the paragraphs still to be discussed under the section entitled "Create international conditions conducive to the realization of the right to development" (chap. III) to the section on macroeconomic policies. These paragraphs referred to the need for greater transparency in the operations of international financial institutions and the creation of international institutions to regulate the activities of transnational corporations. Placing these proposals outside the context in which they were originally submitted reduces their importance.

37. It is our opinion that the manner in which the discussions were conducted, the unmistakeable manipulation (by all indications) of the documentation and the adoption of a report on which there was not unanimous agreement are grave violations of all procedures established for such meetings.

38. Finally, it must be emphasized that our repeated appeals for the continuation of negotiations in order to arrive at texts acceptable to all parties were, except in a few notable cases, virtually ignored.

(Signed) Silvio Baró Herrera
Expert

(Signed) Adolfo Curbelo Castellanos
Alternate Expert

Annex II

LIST OF PARTICIPANTS

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Ms. Cynthia Neury

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Ms. Marie-Josephine Nsengiyumva

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* Alternate.

Annex III

AGENDA

Finalization and adoption of the general report of the Working Group.

Annex IV

LIST OF DOCUMENTS

E/CN.4/1994/21	Report of the Working Group on the Right to Development on its first session
E/CN.4/1995/11	Report of the Working Group on the Right to Development on its second session
E/CN.4/1995/27	Report of the Working Group on the Right to Development on its third session
E/CN.4/1996/10	Report of the Working Group on the Right to Development on its fourth session
E/CN.4/1995/25 and Add.1 and 2	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1994/11 and addenda
E/CN.4/AC.45/1994/2 and Add.1	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1993/22 and addendum
E/CN.4/AC.45/1994/4 and Add.1	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1993/22 and addendum
E/CN.4/AC.45/1994/5 and Add.1	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1993/22 and addendum
E/CN.4/AC.45/1995/2 and Add.1	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1994/21 and addendum
E/CN.4/AC.45/1995/3 and Add.1	Report of the Secretary-General submitted pursuant to Commission on Human Rights resolution 1994/21 and addendum
E/CN.4/Sub.2/1995/10	Report of the Secretary-General prepared in pursuance of resolution 1994/37 on a preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights

E/CN.4/Sub.2/1995/11	Document prepared by the Secretary-General on the relationship between the enjoyment of human rights, in particular, international labour and trade union rights, and the working methods and activities of transnational corporations
E/CN.4/Sub.2/1995/12	Final report submitted by Mr. Rajindar Sachar, Special Rapporteur, on the right to adequate housing
E/CN.4/Sub.2/1995/14	Preliminary report prepared by Mr. José Bengoa in conformity with resolution 1994/40 of the Subcommission and decision 1995/105 of the Commission on Human Rights
E/CN.4/Sub.2/1995/15	Second interim report on human rights and extreme poverty, prepared by the Special Rapporteur, Mr. Leandro Despouy
E/CN.4/Sub.2/1995/19	Interim report on opposition to the impunity of perpetrators of human rights violations (economic, social and cultural rights), prepared by Mr. El Hadji Guissé pursuant to Subcommission resolution 1994/34
E/CN.4/Sub.2/1995/L.11/Add.6	Draft report of the Subcommission on Prevention of Discrimination and Protection of Minorities on its forty-seventh session
E/CN.4/1995/L.11/Add.1	Draft report of the Commission on its fifty-first session
A/49/665	An agenda for development: recommendations. Report of the Secretary-General
A/CONF.166/9	Report of the World Summit for Social Development

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